
Interagency Contracts Coordinating Team (ICCT) Meeting Minutes

February 11, 2003

Attending: Laura Nelson (OFM), Susan Johnsen (OFM), Anne Holm (SAO), Melanie Buechel (OSPI), Carolyn Stephens (OFM), Sue Bush (DHS), Travis Sugarman (DHS), Mark Tyler (DHS), Brad Babayan (DVA), Debbie Kettelhut (DVA), Liz Mettler (CTED), Linda Cornwall (L&I), Tom Goldsby (L&I), Gary Banning (DOC), Debbie Dunn (ESD), Larry Oline (ESD), Susan DeBlasio (DOH), Ann Thompson (DOH), Deborah Eisen (DHS), Jim Matthew (DOH), John Nispel (DOC), Teri Savage, Representative Mary Lou Dickerson, Melissa Burke-Cain (AGO), and Pam Anderson (AGO).

Proposed SAAM Definition of Grant

Laura read the proposed grant definition for the SAAM, which is:

"Means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other forms of assistance such as revenue sharing, loans, loan guarantees, interest subsidies, insurance or direct appropriations. Also, the term does not include assistance, such as fellowship or other lump sum awards, which the grantee is not required to account for."

The group began a discussion of the definition. Some topics included:

- Does the definition concern state grants only, or are federal grants included, too?
- Entitlement vs. discretionary grants
- Concern that the definition doesn't include loans and loan guarantees
- Rules of competition don't apply to certain grants, e.g. can advertise in trade journals rather than publications required for competitive procurements
- Most of the definition describes what a grant is not, instead of what one is.
- Grant vs. cooperative agreement. Generally, a cooperative agreement is very similar to a grant, but assumes more control. Define the difference.
- Decide whether to include a definition in the SAAM that includes all agencies or ask each agency to develop their own definition. Another option is to determine minimum criteria for all agencies, and then agencies can add their own specificity.
- No exemptions for grants in statute; no overriding authority.
- Is definition helpful? What are we trying to accomplish? At least want a working definition of a grant.
- Clearly define other types of contracts, and if none fit, consider it a grant.
- Confusion when agencies receive dollars as a grant; some think they must give the dollars out as a grant, too, rather than a contract.

Representative Mary Lou Dickerson

Representative Dickerson attended the meeting and congratulated the group on successful contract practice improvements. She asked for feedback on new training requirements, etc., and talked about the current legislative emphasis of accountability and the need to develop greater trust in government. She indicated state employees do good work but a few bad examples are used as a focus for those negative on government.

A few agencies gave examples of good things that have happened related to their contract processes. She proposed scheduling a contract award event to get some good news out, recognize agencies that have improved contracting processes to lessen risk, save money, etc. She asked agencies to email her their success stories. The OFM Contracts Office will follow up regarding the event.

HIPAA

Pam Anderson and Melissa Burke-Cain, Assistant Attorneys General, attended the meeting to provide clarification on HIPAA requirements. They explained the definition of a business associate and the difference between a covered entity, non-covered entity, and a hybrid entity in relation to using the business associate addendum. They stated that the HIPAA addendum is separate because the number of affected contracts is much lower than originally anticipated and the language doesn't need to be included in all contracts. Also, since HIPAA changes periodically, it made sense to create an addendum that could be updated when needed.

Pam and Melissa stated that no private right of action exists under HIPAA, meaning an individual cannot sue an entity for release of private health information. However, an individual can still bring suit under state law. Also, HIPAA violations can be reported to the Office of Civil Rights, who has enforcement authority and can assess penalties.

For contracts between state agencies, a memorandum of understanding replaces the business associate agreement. The memorandum of understanding can also be used for contracts between state and local government agencies. Political subdivisions can, but aren't required to, use memoranda of understanding for government-to-government contracts.

Brad Babayan, DVA, has a Covered Entity decision tree from the federal Department of Health and Human Services website that he will send to Laura for distribution.

The Attorney General's Office is currently working on a draft memorandum of understanding, which is due to the AG HIPAA workgroup on 2/19, with a final model available sometime in March.

NEXT MEETING

- MARCH MEETING IS CANCELLED -

The next meeting will take place on April 8, at 1:30 to 3:30 at the OFM IBM Building.

Agenda Items

- Grants
- Follow-up with Representative Dickerson

Please email Laura with any suggestions for agenda items.